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| State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION | | | PUBLIC MATTER |
| Counsel for the State Bar Desiree Fairly Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1038 Bar # 307991 | Case Number(s): 18-J-13760 | For Court use only <div style="text-align: center;"> FILED <i>MS.</i> SEP 17 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> | |
| In Pro Per Respondent Jo-Ann M. Adams PO Box 75472 Honolulu, HI 96836 Bar # 183871 | Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | | |
| In the Matter of: JO-ANN M. ADAMS Bar # 183871 A Member of the State Bar of California (Respondent) | | | |

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 2, 1996**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 17 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."



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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-half of the costs must be paid with Respondent's membership fees for each of the following years: 2 billing cycles following the effective date of discipline.
- If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be due and payable immediately.
- Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs."
- Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline:**
- (a) State Bar Court case # of prior case:
- (b) Date prior discipline effective:
- (c) Rules of Professional Conduct/ State Bar Act violations:
- (d) Degree of prior discipline:
- (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.

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- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. **See page 13.**
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [Standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of Respondent's misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of Respondent's misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced Respondent.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

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- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by Respondent, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond Respondent's control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of Respondent's misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Discipline, see page 13.

Good Character, see page 13.

D. Recommended Discipline:

- (1) **Actual Suspension:**
- Respondent is suspended from the practice of law for **one year**, the execution of that suspension is stayed, and Respondent is placed on probation for **two years** with the following conditions.
- Respondent must be suspended from the practice of law for the first **90 days** of the period of Respondent's probation.
- (2) **Actual Suspension "And Until" Rehabilitation:**
- Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.
- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)
- (3) **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**
- Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

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- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
 - b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(4) **Actual Suspension "And Until" Restitution (Multiple Payees) and Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

| <i>Payee</i> | <i>Principal Amount</i> | <i>Interest Accrues From</i> |
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- b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(5) **Actual Suspension "And Until" Restitution (Single Payee) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the

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Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and,

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(6) **Actual Suspension "And Until" Restitution (Multiple Payees) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

| <i>Payee</i> | <i>Principal Amount</i> | <i>Interest Accrues From</i> |
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- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent is suspended from the practice of law for the first _____ of probation (with credit given for the period of interim suspension which commenced on _____).

E. Additional Conditions of Probation:

- (1) **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's

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compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

- (2) **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3) **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4) **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5) **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) **Quarterly and Final Reports:**
- a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
- b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
- c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

- d. **Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (7) **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8) **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because **Respondent lives and practices law in that state of Hawaii.**
- (9) **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10) **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within **one year** after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete **six** hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11) **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.
- (12) **Minimum Continuing Legal Education (MCLE):** Within **one year** after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete **three** hour(s) of California Minimum Continuing Legal Education-approved participatory activity in other subjects identified in E. (13)

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and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

(13) **Other:** Respondent must also comply with the following additional conditions of probation: **Because respondent resides outside of California, within one year after the effective date of the Supreme Court order imposing discipline in this matter, respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session, or in the alternative, complete three hours of California Continuing Legal Education-approved participatory activity addressing issues of client trust accounting and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and respondent will not receive MCLE credit for this activity. If respondent provides satisfactory evidence of completion of the Client Trust Accounting School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, respondent will nonetheless receive credit for such evidence toward respondent's duty to comply with this condition .**

(14) **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

(15) **The following conditions are attached hereto and incorporated:**

Financial Conditions

Medical Conditions

Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

F. Other Requirements Negotiated by the Parties (Not Probation Conditions):

(1) **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.

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- (2) **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because
- (3) **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (4) **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (5) **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because
- (6) **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JO-ANN M. ADAMS
CASE NUMBER: 18-J-13760

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 18-J-13760 (Discipline in Other Jurisdiction)

PROCEDURAL BACKGROUND IN OTHER JURISDICTION:

1. On June 30, 1997, respondent was admitted to the practice of law in the State of Hawaii.
2. Pursuant to the Supreme Court of Hawaii Decision in case number SCAD-17-0000163, filed on March 7, 2018, the Court found clear and convincing evidence that respondent had committed violations of rule 1.15(a)(2), 1.15(b), 1.15(c), 1.15(d), 1.15(e), and 1.15(g)(2) of the Hawaii Rules of Professional Conduct. Attached as Exhibit 1 is a certified copy of the Hawaii Supreme Court decision. Attached as Exhibit 2 is a true and correct copy of the Hawaii rules violated.
3. On March 7, 2018, the Supreme Court of Hawaii ordered respondent suspended from the practice of law for one year. Thereafter, the order of the Supreme Court became final.
4. The disciplinary proceeding in the other jurisdiction provided fundamental constitutional protection.

FACTS FOUND IN OTHER JURISDICTION:

5. In 2009, the IRS levied the personal checking account of respondent's client ("T.K.") because of delinquent taxes he owed. T.K. was expecting to receive a large inheritance and he asked respondent for help with his tax problems.
6. Respondent and T.K. executed an Attorney-Client Fee Contract on April 3, 2010. Respondent advised T.K. that for the time being she would put his inheritance in her client trust account ("CTA") while he dealt with the IRS. Respondent proposed that she would not pay any money directly to him because of his tax problems. Instead, she would make payments on his behalf out of her CTA to third parties for his personal expenses, such as to his landlord.
7. The IRS recorded a tax lien in the Hawaii Bureau of Conveyances against T.K. for \$34,332.81 on May 3, 2010.
8. T.K. gave respondent three checks totaling \$113,608.67 between April 2010 and September 2011, which she deposited into her CTA. Respondent then, pursuant to T.K.'s instructions, disbursed

these funds to numerous third parties to pay his personal living expenses, and not legal fees and costs.

9. The Supreme Court of Hawaii found insufficient evidence that respondent had the intent to conspire with T.K. to sequester his inherited funds in her client trust account in order to avoid the payment by her client of appropriate taxes on those funds.

10. Respondent overdrew her CTA on more than one occasion:

- a. From October 14, 2011 through June 6, 2013, respondent made 48 unequal payments from her CTA to several different parties at T.K.'s request. Respondent continued making payments to T.K. after the amount of his inheritance on deposit in her CTA was exhausted, which overdrew the account and resulted in the payments being made from other client's funds.
- b. On December 30, 2013, respondent used a counter check to withdraw \$500.00 from her CTA for earned fees in a client matter, when she had already withdrawn the fees earlier that month, and thereby overdrew the account.
- c. On March 17, 2015, respondent deposited a check for \$606.10 from a client into her business account rather than her CTA. On the same date, respondent wrote two CTA checks totaling \$606.10 to withdraw the funds that had been placed in her business account. The bank honored these CTA checks, which overdrew the account.

11. Respondent's inadequate recordkeeping placed the funds of her clients in substantial danger of serious injury.

12. Respondent deposited into the CTA her own funds – including funds earned in her legal practice, earned for non-legal work, and obtained through an inherited interest in a judgment – with client funds from 2010 through September 30, 2013.

13. As an example of the personal funds that she deposited into the CTA, respondent deposited three separate checks from the Kiaaina for Congress campaign (payment for her work on the campaign) by depositing them into her CTA on April 5, 2012, June 5, 2012 and August 13, 2012.

14. Respondent also deposited personal funds into her CTA when she received multiple checks from a California collection agency on an account belonging in part to her late father. After her father's death and after respondent disbursed his assets, she continued to deposit these checks into her CTA as part of her father's estate.

15. As another example of respondent's CTA deposits, she retained earned fees in the account. On January 9, 2013, she deposited \$27,707.31 in earned fees from a client matter into her CTA. Respondent then removed the balance of the earned fees from her CTA over the next nine months in multiple small disbursements.

16. By retaining her earnings in her client trust account, she placed the client funds in her account at substantial risk of injury.

17. Respondent paid personal and non-client business expenses from her client trust account, and withdrew funds from that account by means of checks made to "cash." Respondent made at least 73 payments of personal and non-client business expenses out of her CTA.

18. Respondent failed to label checks and to maintain contemporaneous financial records of her CTA. It took respondent many attempts to provide the Hawaii State Bar with a complete subsidiary ledger to account for all the checks and deposits attributable to T.K. Some versions of the T.K. subsidiary ledger that respondent submitted to the Hawaii State Bar contained internal inconsistencies.

19. Respondent did not file her 2010, 2011, and 2012 federal and state tax returns until August 23, 2013, and her 2010 second semester and 2011 and 2012 general excise tax returns until June 20, 2014.

CONCLUSIONS OF LAW:

20. As a matter of law, respondent's culpability of professional misconduct determined in the proceeding in Hawaii warrants the imposition of discipline under the laws and rules binding upon respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent repeatedly commingled a significant amount of funds beginning in at least 2010 and continuing through September 2013. During the same time period, she also failed to file tax returns. Additionally, respondent failed to keep complete and accurate records of her client trust account.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent had over 15 years of discipline free practice in both California and Hawaii when her misconduct began. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than 10 years is worth significant weight in mitigation].)

Extraordinary Good Character: Respondent demonstrated in the Hawaii proceedings that she possessed good character and participated in significant pro bono work.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.)

“Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, respondent was found culpable of professional misconduct in the other jurisdiction, and to determine the appropriate sanction in this proceeding, it is necessary to consider the equivalent rule or statutory violation under California law. Respondent commingled a significant amount of personal funds in her client trust account from 2010 through September 2013. This misconduct is analogous to a violation of California Rules of Professional Conduct, rules 4-100(A), which prohibits such commingling. Additionally, respondent failed to maintain adequate financial records of the client funds maintained in her trust account, which is analogous to a violation of rule 4-100(B)(3). Respondent’s failure to file tax returns during the relevant time period is a violation of Business and Professions Code, section 6068(a).

In this matter, respondent committed multiple acts of professional misconduct. Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.” The most severe sanction applicable to respondent’s acts of misconduct is found in Standard 2.2(a), which presumes an actual suspension of three months for commingling. A three month actual suspension is appropriate in this case, especially given that respondent’s commingling occurred repeatedly over a three year period and is coupled with other violations.

“The reason the standards call for the general imposition of a three month minimum for commingling stems from the inherent danger posed by such violation. [The Rule] was adopted to provide against the probability in some cases, the possibility in some cases, and the danger in all cases that such commingling will result in the loss of clients' money.” (*Matter of Whitehead* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354, 371.) Here, the Hawaii Supreme Court, in its opinion imposing discipline on respondent, illuminated the danger to which she exposed her clients’ funds: “[respondent’s] grossly negligent recording...was so inadequate...that she placed the funds of her clients in substantial danger of serious injury. This conclusion, viewed together with...conclusions regarding her failure to file tax returns and her commingling of personal funds in her client trust account, provides clear grounds for a substantial period of suspension.” Therefore, respondent’s commingling is precisely the type of misconduct that the sanction presumed in Standard 2.2(a) is intended to address.

Case law supports the recommended discipline. The present case is analogous to *Matter of McKiernan* (1995) 3 Cal. State Bar Ct. Rptr. 420, in which the court recommended a three month actual suspension for misconduct involving repeated misuse and neglect of the client trust account, and issuance of two checks backed by insufficient funds. McKiernan had an agreement in which a friend used his law firm's client trust account to conceal funds from a third party. McKiernan then borrowed his friend’s funds from the trust account for his own personal and business uses. Client funds were also in the trust account during this time period. McKiernan issued two client trust account checks when he knew that there were insufficient funds, thereby overdrawing the account. Due to McKiernan’s failure to maintain any client ledger or other bookkeeping controls during the relevant time period, it was impossible to determine if any client funds in the trust were lost. The court found respondent culpable of violating section 6106

based on mismanagement of his trust account and gross negligence in issuing the two insufficient checks, and of violating rule 4-100(A) by commingling personal funds that he had borrowed from his friend and for improper maintenance of the account. Aggravation included indifference; the court assigned diminished mitigation for lack of prior discipline. In determining the level of discipline, the court could "...find no compelling reason to depart from the three months minimum suspension called for by [Former standard 2.2(a)]." (*Id.* at p. 429.)

The facts of *McKiernan* mirror the present misconduct, in which respondent allowed a client to use the trust account to deposit funds that would otherwise have been subject to a lien, repeatedly commingled personal funds in the trust account, and did not keep client ledgers and generally failed to maintain account records. Moreover, respondent knowingly failed to file tax returns for three consecutive years. On balance, the present misconduct is similar to that in *McKiernan* and not distinguished by any notably different facts regarding aggravation or mitigation. As such, the present case warrants a similar level of discipline.

In *Matter of Koehler* (1991) 1 Cal. State Bar Ct. Rptr. 615, the attorney received an actual six month suspension. Koehler repeatedly used his client trust account as a personal account, failed to refund unearned cost advances promptly in two instances, and failed to perform services competently in one matter. In aggravation, Koehler committed an act of moral turpitude by keeping his personal funds in his trust account in order to conceal them from the Franchise Tax Board, and had a record of prior discipline, having been privately reprimanded based on client inattention in four matters. The court stated that Koehler's commingling warranted imposing at least the minimum three months actual suspension provided for by former Standard 2.2(a). In imposing a six month actual suspension, the court cited aggravation based on moral turpitude in concealing funds from the Tax Board and a prior record of discipline.

Like *Koehler*, respondent failed to file timely tax returns. However, the present case does not include an act of moral turpitude based on use of the trust account to conceal funds from tax authorities. Further, respondent does not have a prior record of discipline. As such, the present case warrants less discipline than that imposed in *Koehler*.

In *Kelly v. State Bar* (1991) 53 Cal.3d 509, the Supreme Court was confronted with an attorney who deposited two client's funds into his general account, commingled, wrote a check on insufficient funds from his client trust account, and misappropriated \$750 from a client. The Court found that the misappropriation did not stem from an intent to deceive and that the trust account violations occurred during a time when the attorney was moving his office and his long time office manager, who handled the bank accounts, had left his employ. There was also an absence of harm with regard to the insufficient check and the commingling. Given the above, as well as mitigation for 13 years of practice without prior discipline, the Court ordered an actual suspension of 120 days.

Respondent's practice of commingling was more extensive than the conduct in *Kelly*, and the current misconduct occurred over a greater period of time – approximately three years. Unlike *Kelly*, respondent's comingling exposed her clients' funds to significant harm. However, *Kelly* also included serious misconduct due to misappropriation, which is not present here. Given the absence of misappropriation, a level of discipline less than that imposed in *Kelly* is appropriate.

A three month actual suspension is in accordance with the standards, appropriate under case law, and sufficient to meet the goals of attorney discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of August 20, 2018, the discipline costs in this matter are \$3,300. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

Respondent may not receive MCLE credit for completion of any educational courses to be ordered as a condition of reapproval or suspension. (Rules Proc. of State Bar, rule 3201.)

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| In the Matter of: JO-ANN M. ADAMS | Case Number(s): 18-J-13760 |
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

| | | |
|-------------------------------------|---|---|
| <u>08/23/2018</u> Date | <u><i>Jo-Ann M. Adams</i></u> Respondent's Signature | <u>Jo-Ann M. Adams</u> Print Name |
| <u> </u> Date | <u> </u> Respondent's Counsel Signature | <u> </u> Print Name |
| <u>08/31/2018</u> Date | <u><i>Desiree M. Fairly</i></u> Deputy Trial Counsel's Signature | <u>Desiree Fairly</u> Print Name |

(Do not write above this line.)

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| In the Matter of: JO-ANN M. ADAMS | Case Number(s): 18-J-13760 |
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ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order. (See Cal. Rules of Court, rule 9.18(a).)**

September 17, 2018
Date

Cynthia Valenzuela
CYNTHIA VALENZUELA
Judge of the State Bar Court



Electronically Filed
Supreme Court
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07-MAR-2018
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SCAD-17-0000163

IN THE SUPREME COURT OF THE STATE OF HAWAII

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

vs.

JO-ANN MARIE ADAMS,
Respondent.

ORIGINAL PROCEEDING
(ODC Case Nos. 14-001-9144, 14-067-9210, 15-018-9237)

ORDER OF SUSPENSION


(By: Recktenwald, C.J., Nakayama, Pollack, and Wilson, JJ.,
and Intermediate Court of Appeals Associate Judge Reifurth,
in place of McKenna, J., recused)

Upon consideration of the March 15, 2017 report submitted to this court by the Disciplinary Board of the Hawai'i Supreme Court, the record, and the briefs submitted in this matter, we reach the following Findings of Fact and Conclusions of Law, based upon clear and convincing evidence.

In Case No. 14-001-9144, the record establishes that, from 2010 through September 30, 2013, Respondent Jo-Ann Adams failed to maintain a separate business account, in violation of Rule 1.15(a)(2) of the Hawai'i Rules of Professional Conduct

I hereby certify that the foregoing
is a true copy of the original.
Dated, Honolulu, Hawaii

APR 30 2018


Clerk, Appellate Courts
State of Hawaii

(HRPC) (1994).¹ She used counter deposit slips to deposit funds into her client trust account and her business account, and used counter checks to disburse funds from her client trust account, constituting multiple violations of HRPC Rule 1.15(b). Respondent Adams commingled her own funds - including funds earned in her legal practice, earned for non-legal work, and obtained through an inherited interest in a judgment - with client funds from 2010 through September 30, 2013, in violation of HRPC Rule 1.15(c). By willfully and knowingly retaining her earnings in her client trust account, she placed the client funds in her account at substantial risk of injury.

Respondent Adams paid personal and non-client business expenses from her client trust account, and withdrew funds from the account by means of checks made to "cash," each instance of such conduct constituting a violation of HRPC Rule 1.15(e). She failed to label checks and to maintain contemporaneous financial records with the accuracy and consistency necessary to protect the integrity of her clients' funds by responsibly overseeing the receipt, maintenance, and disbursement of those funds, as required by HRPC Rule 1.15(g) (2).

We further conclude that Respondent Adams failed to file her 2010, 2011, and 2012 federal and state tax returns until August 23, 2013, and her 2010 second semester and 2011 and 2012

¹ All citations to the HRPC in this order are to the 1994 edition, unless otherwise noted.

general excise tax returns until June 20, 2014. We further conclude failing to file her returns by the appropriate deadlines injured the public and the legal profession.

However, we also conclude, following a thorough and complete *de novo* review of the record, that the Office of Disciplinary Counsel (ODC) did not succeed in carrying its burden of establishing, by clear and convincing evidence, that Respondent Adams had the intent to conspire with her client in this case to sequester the client's inherited funds in her client trust account in order to avoid the payment by her client of appropriate taxes on those funds. See ODC v. Au, 107 Hawai'i 327, 336, 113 P.3d 203, 212 (2005); Disciplinary Bd. of the Hawai'i Supreme Ct. v. Bergan, 60 Haw. 546, 554, 592 P.2d 814, 819 (1979).

In Case No. 14-067-9210, we conclude Respondent Adams misappropriated client funds, in violation of HRPC Rules 1.15(c) and 1.15(d), and injured that client when, on December 30, 2013, she disbursed monies from her client trust account using a counter check, overdrawing the account, at a time when she, by her own admission, held funds for a client in that account.

In Case No. 15-018-9237, the record establishes by clear and convincing evidence that, on May 17, 2015, Respondent Adams wrote a check to herself for \$459.80 from her client trust account against insufficient funds and, in making the

disbursement to herself, relied in part on \$25.00 belonging to a client. Based upon the plain language of HRPC Rule 1.15(c) (2014), the withdrawal of the \$25.00 of client money from her client trust account violated that Rule and injured the client in question.

Adams's grossly negligent recordkeeping also establishes, by clear and convincing evidence, that her financial recordkeeping was so inadequate, the violation of her duties under HRPC Rule 1.15(g) so severe, that she placed the funds of her clients in substantial danger of serious injury. This conclusion, viewed together with our conclusions regarding her failure to file tax returns and her comingling of personal funds in her client trust account, provides clear grounds for a substantial period of suspension. See ODC v. Horner, SCAD-15-930 (March 20, 2016); ODC v. Manuia, SCAD-13-136 (May 20, 2013); ODC v. Hartman, SCAD-11-96 (March 24, 2011); ODC v. James Ching, No. 25697 (May 2, 2003); ODC v. Trask, No. 21929 (January 19, 1999); see also In re: Alex, 205 So.3d 895 (La. 2016); In re Shamers, 873 A.2d 1089 (Del. 2005); In the Matter of Cabaniss, 495 S.E.2d 779 (S.C. 1998).

Finally, we find, in aggravation, that Respondent Adams violated multiple provisions of the HRPC over an extended period of time, had substantial experience in the practice of law and failed to file her tax returns when due.

We find, however, in mitigation, that Respondent Adams

has a clean disciplinary record, has an excellent reputation in the community and has performed significant *pro bono* work, fully and freely cooperated with ODC in its investigation (including taking the initiative to report a subsequent overdraft of her account), and expressed sincere remorse for the mishandling of her financial affairs and client funds in particular. Therefore,

IT IS HEREBY ORDERED that Respondent Adams is suspended from the practice of law for one year, effective 30 days after the entry date of this order.

IT IS FURTHER ORDERED that Respondent Adams shall complete a course, offered by the Practicing Attorneys' Liability Management Society (PALMS) or an equivalent, on the responsible management of a law practice, which shall include requirements governing the appropriate manner for receiving, maintaining, and disbursing client funds, handling earned fees and incurred costs, as well as the recordkeeping tools available to ensure compliance with the Hawai'i Rules of Professional Conduct and the Hawai'i Rules Governing Trust Accounting. Submission of proof of completion of this course shall be a pre-requisite to her reinstatement, as a condition of this order of suspension, pursuant to RSCH Rule 2.17(b)(2). Respondent Adams is reminded that, pursuant to RSCH Rule 2.17(a), she may not practice law until reinstated by an order of this court.

IT IS FURTHER ORDERED that, pursuant to RSCH Rule 2.16(d), within 10 days of the effective date of her suspension

Respondent Adams shall submit to this court proof of compliance with the requirements of RSCH Rule 2.16.

IT IS FURTHER ORDERED that any reinstatement of Respondent Adams to the practice of law shall be subject to her successful completion of an audit, within one year of her return to practice, conducted by the Practicing Attorneys' Liability Management Society or other similar organization, and submission to this court of proof of said successful completion within 60 days of the one-year anniversary of reinstatement, or good cause for an extension. Failure to fulfill this condition may result in a further period of suspension, upon a review of the record in this matter.

IT IS FINALLY ORDERED that Respondent Adams shall bear the costs of these disciplinary proceedings, upon the timely submission to this court of a verified bill of costs by ODC, pursuant to RSCH Rule 2.3(c).

DATED: Honolulu, Hawai'i, March 7, 2018.

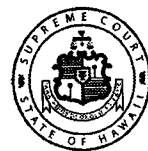
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Richard W. Pollack

/s/ Michael D. Wilson

/s/ Lawrence M. Reifurth





Hawaii Rules of Professional Conduct (1994)

Rule 1.15 Preserving Identity of Funds and Property of a Client or Third Person

- (a) Every lawyer in private practice in the State of Hawai'i who receives or handles client funds shall maintain in one or more bank or savings and loan association accounts maintained in this state, in the lawyer's own name, or in the name of a partnership of lawyers, or in the name of the professional corporation of which the lawyer is a member, or in the name of the lawyer or partnership of lawyers by whom employed:
- (1) a trust account or accounts, separate from any business and personal accounts, into which all funds entrusted to the lawyer's care shall be deposited; and
 - (2) a business account into which all earned trust funds for professional services shall be deposited.
- (b) Each trust account, as well as deposit slips and checks drawn thereon, shall be prominently labeled "client trust account." Nothing herein shall prohibit any additional descriptive designation for a specific trust account. Client trust account checks shall bear preprinted consecutive numbers. Each business account, as well as deposit slips and checks drawn thereon, shall be prominently labeled "business account," "office account," or appropriate business-type account.
- (c) A lawyer in possession of any funds or other property belonging to a client or third person, where such possession is incident to the lawyer's practice of law, is a fiduciary and shall not commingle such funds or property with his or her own or misappropriate such funds or property to his or her own use and benefit. A lawyer may deposit into a trust account funds reasonably sufficient to either pay bank charges or avoid paying bank charges on the account. Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited into the trust account, but the portion belonging to the lawyer or law firm must be withdrawn when due unless the right of the lawyer or law firm to receive the funds is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.
- (d) All funds entrusted to a lawyer shall be deposited intact into a trust account. The deposit slip shall be sufficiently detailed to identify each item. All fee retainers shall be maintained in trust until earned. All fee retainers are refundable until earned.
- (e) All trust account withdrawals shall be made only by authorized bank transfer or by check made payable to a named payee and not to cash. Only an attorney admitted to practice law in this state shall be an authorized signatory on an attorney trust account. Earned fees withdrawn from a trust account shall be distributed by check to the named lawyer, law partnership, or professional law corporation. No personal or non-client business expenses of the lawyer, law partnership, or professional law corporation shall be paid directly from the trust account.
- (f) A lawyer shall:
- (1) promptly notify a client or third person of the lawyer's receipt of funds, securities, or other properties in which the client or third person has an interest;

- (2) identify and label securities and properties of a client or third person promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable;
- (3) maintain complete computerized or manual records of all funds, securities, and other properties of a client or third person coming into the possession of the lawyer and promptly render appropriate accounts to the client or third person regarding them. The books and records shall be preserved for a [sic] least six years after completion of the employment to which they relate. Every lawyer in private practice shall certify, in connection with the annual renewal of the lawyer's registration, that the lawyer or the lawyer's law firm maintains books and records in compliance with this rule, HRPC Rule 1.15; and
- (4) promptly pay or deliver to the client or third person, as requested by the client or third person, the funds, securities, or other properties in the possession of the lawyer which the client or third person is entitled to receive.

(g) A lawyer shall, at a minimum, maintain for at least six years after completion of the employment to which they relate, the following computerized or manual books and records demonstrating compliance with this rule, HRPC Rule 1.15:

(1) Cash receipts and disbursements journals for each trust and business account, including entries for receipts, disbursements, and transfers, and also containing at least:

(A) identification of the client matter for which trust funds were received, disbursed, or transferred;

(B) the date on which trust funds were received, disbursed, or transferred;

(C) the check number for each disbursement; and

(D) the payor or payee for which the trust funds were received, disbursed, or transferred.

(2) A subsidiary ledger containing either a separate page for each client (for manual records only) or an equivalent computer analysis showing all individual receipts, disbursements, or transfers and any unexpended balance, and also containing:

(A) identification of the client or matter for which trust funds were received, disbursed, or transferred;

(B) the date on which trust funds were received, disbursed, or transferred;

(C) the check number for each disbursement; and

(D) the payor or payee for which trust funds were received, disbursed, or transferred.

(3) Copies of any retainer and compensation agreements with clients.

(4) Copies of any statements to clients showing the disbursement of funds to them or on their behalf.

(5) Copies of all bills rendered to clients.

(6) Copies of records showing all payments to attorneys, investigators, or other persons, not in the lawyer's regular employ, for services rendered or performed.

(7) All checkbooks, check stubs, bank statements, prenumbered cancelled checks (or access to cancelled checks), and deposit slips (or access to deposit slips).

(8) Copies of all monthly trust account reconciliations.

(9) Copies of all records showing at least quarterly (i) a listing of trust accounts (names and related balances), the grand total of which agrees with (equals) (ii) the reconciled trust account bank balance of even date (a printed copy of the listing and the reconciled trust account balance shall be maintained for 6 years).

(10) A record showing all property, specifically identified, other than cash, held in trust, provided that routine files and documents which are not expected to be held indefinitely need not be so recorded.

(h) The financial books and other records required by this rule shall be maintained on a cash method consistently applied from year to year. Bookkeeping records may be maintained by computer, provided that they otherwise comply with this rule and provided further that printed copies can be made on demand. Bookkeeping records shall be located at the principal Hawai'i office of each lawyer, law partnership, or professional law corporation and shall be available for inspection, checks for compliance with this rule, and copying at that location by a duly authorized representative of the Office of Disciplinary Counsel.

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 17, 2018, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER
APPROVING

in a sealed envelope for collection and mailing on that date as follows:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JO-ANN M. ADAMS
LAW OFFICES OF JO-ANN M. ADAMS, LLLC
PO BOX 75472
HONOLULU, HI 96836

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

DESIREE FAIRLY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 17, 2018.



Paul Songco
Court Specialist
State Bar Court